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September 26, 2013

DECLASSIFIED

Date: 3/13/14 Initial: SKL

**VIA FEDERAL EXPRESS**

Beverly Kolenberg, Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
290 Broadway, 17th Floor  
New York, NY 10007-1866

Re: Notice of Potential Liability and Request for Information Pursuant to the  
Comprehensive Environmental Response, Compensation and Liability Act, 42  
U.S.C. 9607(a) and 96-46, Related to the New Cassel/Hicksville Ground Water  
Contamination Superfund Site in the Towns of Hempstead, North Hempstead  
and Oyster Bay in Nassau County, New York

Dear Ms. Kolenberg:

Island Transportation Corporation ("ITC") responds to the Environmental Protection Agency's ("EPA") Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") § 104(e) and § 107(a) Request for Information dated July 31, 2013 relating to the New Cassel/Hicksville Ground Water Contamination Superfund Site in the Towns of Hempstead, North Hempstead and Oyster Bay in Nassau County New York (the "Site") as set forth below. However, as an initial matter, ITC denies any responsibility for any release, disposal and/or threatened release or disposal of hazardous substances as that term is defined by CERCLA. Furthermore, ITC denies EPA's allegation that it is a potentially responsible party under CERCLA with respect to the Site as defined by Nicoletta Diforte's July 31, 2013 letter.

Furthermore, ITC maintains that certain of the information sought by EPA is confidential pursuant to 42 U.S.C. § 9604(e)(7)(E) and (F) and 40 C.F.R. § 2.203(b). Specifically, ITC considers any details related to existence of and/or scope of any insurance policies to be confidential. ITC does not share that information with anyone. Moreover, ITC would be prejudiced if that information were made public because the potential existence of insurance coverage has no bearing on the issue of liability or allocation. Therefore, ITC requests that the information and documents provided in response to Item No. 11 be maintained a confidential.

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**ITC'S RESPONSE TO CERCLA § 104(e) and §107(a)**  
**INFORMATION REQUEST REGARDING**  
**THE SUPERFUND SITE,**

**I. GENERAL OBJECTIONS AND STATEMENT OF LIMITATIONS**

1. ITC objects to each request to the extent that it exceeds the scope of permissible information gathering and access under CERCLA § 104(e) and § 107(a).
2. ITC objects to each request to the extent that the request seeks information concerning all of ITC's facilities. Based on information received from the Environmental Protection Agency ("EPA") concerning ITC's alleged connection to the Site, ITC's review, identification, and production of documents, and the information supplied in response to the requests set forth below, is limited to the following facility: 299 Main Street, Westbury, New York.
3. ITC objects to each request to the extent that the request was prepared by an entity or person other than the EPA.
4. ITC objects to each request to the extent that the request seeks a response that is protected by any privilege or immunity, including the attorney-client privilege and the attorney work-product doctrine. No documents or information subject to this objection are being provided.
5. ITC objects to each request to the extent that the request is unduly burdensome, is not sufficiently definite or specific, and/or is not reasonably relevant to EPA's basic inquiry concerning the Site.
6. ITC objects to each request to the extent that the request seeks information about any entity other than ITC, as ITC does not have knowledge or information sufficient to form a reliable response to such inquiries.
7. ITC objects to each request to the extent that it requires ITC to provide information or documents that may be obtained by EPA from another source that is more convenient, less expensive, or less burdensome.
8. ITC objects to each request to the extent that it requires ITC to review or analyze documents to obtain information not specifically known by ITC'S officers, agents, or employees.
9. ITC objects to each request to the extent that it requires ITC to identify each document that is responsive to each individual request because such a requirement is unduly burdensome.

10. ITC objects to each request to the extent that it purports to require investigation and review of documents from any person or entity whose role in matters related to this Request for Information was and is purely ministerial or insubstantial, or who is not employed by or under contract with ITC or an affiliated company. Such requests are unduly burdensome, broad, and vague.

Subject to the foregoing objections, and without waiving any objection, ITC responds herein to the Request for Information based on information that it possesses at this time, a review of documents consistent with the limitations stated herein and within its custody at this time, and those documents which were located after a reasonable search of its records. As ITC's investigation in this matter is ongoing, ITC reserves the right to supplement any response with additional information as it becomes available.

**II. RESPONSES TO NUMBERED REQUESTS FOR INFORMATION**

1.

a. State the correct legal name and mailing address of your Company

**Response: Island Transportation Corporation  
299 Edison Avenue  
West Babylon, NY 11074**

b. State the name(s) and address(es) of the President, Chief Executive Officer and the Chairman of the Board (or other presiding officer) of the Company.

**Response: Peter J. Fioretti is ITC's President, Chief Executive Officer and Chairman of the Board.**

c. Identify the state and date of incorporation of the Company and the Company's agents for service of process in the state of incorporation and in New York State.

**Response: ITC was incorporated on or about August 25, 1952 in New York State. ITC does not have any registered agents.**

d. If your Company is a subsidiary or affiliate of another company or entity, identify each of those other corporations or entities and for each, the President, Chief Executive Officer and Chairman of the Board. Identify the state of incorporation and agents for service of process in the state of incorporation and in New York State for each corporation identified in your response to this question

**Response: ITC is not a subsidiary or affiliate of another corporation or entity.**

2. Identify the address, Section, Block and Lot numbers, and size of each property (hereinafter, "Property" or "Properties") that your Company either presently owns and/or

formerly owned within the Site from the date of your Company, or any related company had an ownership interest.

**Response:** ITC did not own or have an ownership interest in any property within the Site. ITC leased 299 Main Street from approximately 1971 until approximately 1981 (the "Property"). It believes that the Property is described as Section 11, Blocks 144, 35-46, Westbury, New York.

3. For each Property identified in response to question 2 in which your Company has and/or had an ownership interest currently or in the past, please identify:

a. The date your Company acquired an ownership interest. An ownership interest includes, but is not limited to, fee owner, lessor or lessee, licensee and/or operator.

**Response:** See response to No. 2.

b. The name and address of all other current and/or previous owners:

**Response:** Based upon information and belief, Frank Scappatura, Frank Scappy Real Estate and/or FSR Realty purchased the Site in 1956. In or about 1977, the Property was owned by Frank Scappatura. In 1994, 2632 Realty Development purchased the Property. 2632 Realty then sold the Property to Nicolia Industries in 1996, and reacquired it in 1998. In 2006, 2632 Realty sold the Site to 299 Main Street. 299 Main Street may have assigned or sold its interest to 19 Liberty Ltd.

Based upon information and belief, before 1971, Star Bus and Crestwood Bus companies leased the Property. Beginning around 1981 or 1982, the Property was occupied by Sam-Ton Salvage and Towing, Inc., Sam-Ton Salvage, Inc. and Sam-Ton Foreign and American Auto Salvage, Inc. (collectively "Sam-Ton"). From 1994 through 1997, Phil's Auto and Truck Repairs/One Stop Auto and Truck Repairs occupied the Site.

ITC has no further information about any other owners or operators of the Property.

c. All individuals or entities that have leased, subleased or otherwise operate at each Property at any time currently or in the past, and identify the dates (month and year) that each such individual or entity began and ended its leasehold interest or its operations:

**Response:** See above No. 3.b.

d. Any portion of any Property which was transferred or sold, and the block and lot number, the date of the transfer or sale, the sale price and the entity that acquired the Property.

**Response: See above 3.b.**

e. The relationship, if any, between your Company and each of the individuals and/or other entities identified as having leased or operated at each Property;

**Response: At the time that ITC leased the Property, it was owned by Frank Scappatura, Frank Scappy Real Estate and/or FSR Realty. ITC had no relationship with any tenant or operator at the Property.**

f. Your Company's involvement in all operations conducted by each lease and/or other individual or entity identified in response to question 3c above.

**Response: ITC had no involvement in the operations conducted by any other lessee or owner.**

g. For each Property, provide all documents relevant to your responses to questions 3a-3f above, and provide copies, including but not limited to copies of surveys, title search documents, deeds, rent rolls, leases and correspondence.

**Response: ITC has no responsive documents.**

4. Provide copies of all maps, building plans, floor plans and/or drawings for each Property identified in response to question 2., above. Your response to this question should include, but not be limited to, providing plumbing and drainage system plans for all structures on each Property.

**Response: ITC has no responsive documents.**

For both current (if still in operation) and past operations during the period of time that the Company was at a Property, please identify and provide a description of the following:

a. all surface structures and features (e.g., buildings, above-ground storage tanks, paved, unpaved areas and parking lots, and dates when paved areas were paved);

**Response: To the best of ITC's knowledge, the Property was paved from 1971-81. There was an above ground storage tank in the garage that was used to store Trichloroethylene until 1979. Two 4,000 gallon and two 10,000 gallon above ground storage tanks were removed in 1977. A 500 gallon above ground storage tank was also used for waste oil storage.**

- b. all past and present plumbing systems, above and below-ground discharge piping, sumps, storm water drainage systems, sanitary sewer systems, septic tanks, dry wells, subsurface disposal fields, and underground storage tanks ; and

**Response:** To the best of ITC's knowledge there was one 10,000 gallon underground storage tank ("UST") and two 4,000 gallon underground storage tanks used to store diesel. There was one 4,000 gallon underground storage tank used to store gasoline. A 1,000 gallon UST may have been used for heating oil and a 2,000 gallon UST may have been used for waste oil in 1980. There may have been one or more cesspools outside the garage.

- c. all currently existing and previously existing chemical and industrial hazardous substance storage, transfer, spill and disposal areas.

**Response:** ITC has no responsive information at this time.

- 5. For each Property identified in question 2, above, at which your Company conducted operations, describe in detail the manufacturing processes and/or other operations that your Company conducted at the Property, and identify the years during which your Company conducted operations there. If those operations were not constant throughout your Company's operations, describe the nature of all changes in operations, and state the year of each change. If detailed information about your Company's operations is not available, provide, at a minimum, a general description of the nature of your Company's business at the Property, the years of operation, the type of work your Company conducted, and the number of employees for all the operations.

**Response:** ITC used the Property to wash and repair its trucks and to fill them with gasoline from approximately 1971-1981. ITC used biodegradable detergent to clean the outside of the trucks. ITC used Trichloroethylene ("TCE"), which was stored in an above ground tank inside the garage, which had a concrete floor. The TCE was used only in a closed-loop system in the interior, not the exterior, of asphalt trucks. ITC used approximately 275 gallons of TCE per six month period. It was supplied by Pride Solvent and Chemical, 86 Lane Street, West Babylon, NY. ITC did not discharge it to the soil or ground water; rather the TCE was recaptured and recycled. ITC discontinued the use of TCE in 1979.

ITC also used Safety-Kleen Solvent No. 5 to clean parts. It used approximately 10 gallons every two weeks. Safety-Kleen disposed of the solvent, and may also have disposed of the TCE.

The owner of the Property made available for ITC four UST storage

tanks ("USTs") at the Site. Three of the four tanks were installed before ITC leased the Property. The remaining 10,000 gallon tank was installed in 1972. One 4,000 gallon tank was used to store gasoline; the remaining tanks were used to store diesel. All of those USTs tested tight during ITC's tenure. Although ITC registered the four USTs, it did not own them.

Additionally, a 1,000 gallon UST may have been used for heating oil and a 500 gallon UST and possibly a 2,000 gallon UST may have been used to store waste oil in 1980. . The waste oil was disposed of by General Waste Oil Co., Inc., Huntington, New York.

ITC estimates that there were approximately 40-60 employees at the Property. Copies of documents related to the Property are attached as ITC NCIA001-94.

6. With respect to industrial wastes at a Property:

- a. List all industrial wastes that were used, stored, generated, handled or received by your Company at the Property. Your response to this question should include, but not be limited to, use, storage, generation and/or handling of trichloroethylene ("TCE"), tetrachloroethylene ("PCE"), 1,1,1-trichloroethane ("1,1,1-TCA") and other chlorinated or non-chlorinated solvents. Be as specific as possible in identifying each chemical, and provide, among other things, the chemical name, brand name, and chemical content;

**Response:** ITC used TCE in a closed loop system to wash the inside of its asphalt trucks from 1971 to 1979. The TCE was stored in an above ground tank in a garage with a concrete floor. The TCE was reclaimed and recycled; it was not discharged. ITC also used Safety-Kleen Solvent No. 5 to clean parts. That was disposed of by Safety-Kleen, which may also have disposed of the TCE before its use was discontinued. Additionally, ITC stored diesel/gasoline in the underground storage tanks for filling its vehicles. Waste oil was stored in a 500 gallon and possibly a 2,000 gallon UST.

- b. State when each industrial waste identified in your response to question 6a., above, was used, stored, generated, handled or received, and state the volume of each industrial waste used, stored, generated and/or handled on an annual basis; and

**Response:** ITC had discontinued the use of TCE by 1979. It used approximately 275 gallons, believed to be over a six month period, from approximately 1971-1979. It was not discharged, but instead was recycled and reclaimed, possibly by Safety-

**Kleen.**

**ITC also used approximately 10 gallons of Safety-Kleen Solvent No. 5 a week from 1971-81, which was provided by and recycled by Safety-Kleen.**

**ITC generated approximately 400-500 gallons per month of waste oil, which were removed by General Waste Oil Co., Huntington, New York. It also stored diesel fuel and gasoline for filling its trucks.**

- c. Describe the activity or activities in which each industrial waste identified in your response to question 6a., above, was used, stored, handled or received,

**Response: ITC used TCE, which was stored in an above ground tank inside the garage, which had a concrete floor. The TCE was used only in a closed-loop system in the interior, not the exterior, of asphalt trucks. ITC used approximately 275 gallons of TCE believed to be during a six month period. It was supplied by Pride Solvent and Chemical, 86 Lane Street, West Babylon, NY. ITC did not discharge it to the soil or ground water; rather the TCE was recaptured and recycled. ITC discontinued the use of TCE in 1979.**

**ITC also used Safety-Kleen Solvent No. 5 to clean parts. It used approximately 10 gallons every two weeks. Safety-Kleen disposed of the solvent, and may also have disposed of the TCE.**

**The owner of the Property made available for ITC four USTs. Three of the four tanks were installed before ITC leased the Property. The remaining 10,000 gallon tank was installed in 1972. One 4,000 gallon tank was used to store gasoline; the remaining tanks were used to store diesel. All of those USTs tested tight during ITC's tenure. Although ITC registered the four USTs, it did not own them.**

**ITC may have used a 1,000 gallon UST for heating oil and a 500 gallon UST and possibly a 2,000 gallon UST to store waste oil. The waste oil was disposed of by General Waste Oil Co., Inc., Huntington, New York.**



7. Describe in detail how and where the industrial wastes identified in response to question 6, above, were disposed. For each disposal location and method, state the nature and quantity of the material disposed of on an annual basis. For those time periods when a precise quantity is not available, provide an estimate.

**Response: See response to Request 6c.**

8. Describe in detail any knowledge your Company has about intentional or unintentional disposal of industrial wastes at each Property identified in response to question 2., above, including, but not limited to, TCE, PCE and/or other chlorinated or non-chlorinated solvents or wastes containing such solvents, at any time currently or in the past. Your response should include instances in which industrial wastes were spilled or otherwise disposed onto or into the floors or the ground from septic systems, pipes, drains, drums, tanks, or by any other means. Provide copies of all documents relevant to your response.

**Response: ITC is not aware of any intentional or unintentional disposal of any industrial wastes at the Property during its tenure. Any industrial waste generated by ITC at the Property was disposed of off of the Property.**

9. Identify all leaks, spills, or releases of any kind of any industrial wastes (including, but not limited to, TCE and PCE or other chlorinated or non-chlorinated solvents or wastes containing such solvents) into the environment that have occurred, or may have occurred, at or from the Property, including any leaks or releases from drums and other containers. Provide copies of all documents relevant to your response.

**Response: ITC is not aware of any leaks, spills, or releases of industrial waste at the Property. In 1977, The Nassau County Department of Health inspected the Site and noted a 1 gallon leak of biodegradable detergent.**

**Additionally, the Nassau County Fire Commissioner alleged that a 2,000 gallon diesel tank at the Property was leaking in 1981. However, ITC never used a 2,000 gallon tank to store diesel.**

10. Explain whether any repairs or construction were implemented to address any leaks, spills, releases or threats of releases of any kind, the nature of the work and the dates of any such work. Provide copies of all analyses, characterizations, environmental assessments or studies or any report or other description of any investigations, removal actions, remedial activities, or any other work conducted by your Company or by any other party on your Company's behalf relating to industrial wastes released at or from the Property and/or the

Site. If any copies of the records requested in this question are available electronically, kindly submit your answer to this question on a disk.

**Response: ITC is unaware of any repairs or construction undertaken while it was on the Property.**

11. Provide copies of all insurance policies held and indemnification agreements entered into by the Company which may potentially indemnify the Company against any liability which it may be found to have under CERCLA for releases and threatened releases of hazardous substances at and from the Property. In response to this request, please provide not only those insurance policies and agreements which currently are in effect, but also those that were in effect during any portion of the time the Company conducted operations at, or held a property interest at the NCIA. Your response should also identify the specific Property related to each policy and/or agreement.

**Response: ITC maintains that the information sought by EPA is confidential pursuant to 42 U.S.C. § 9604(e)(7)(E) and (F) and 40 C.F.R. § 2.203(b). See the below response separately provided.**

12. State the names, telephone numbers and present or last known addresses of all individuals whom you have reason to believe may have knowledge, information or documents regarding the use, storage, generation, disposal of or handling of industrial wastes at the Site, the transportation of such materials to the Site, or the identity of any companies whose material was treated or disposed of at the Site.

**Response: ITC states that it has no information related to the Site. However, with respect to the Property, Peter Fioretti, Jr., ITC's President, may have knowledge or information related to ITC's operations at the Property. Mr. Fioretti's address is 299 Edison Ave., West Babylon, New York, and he can be contacted through counsel. Timothy Cropper, former ITC employee, whose last known address is 4348 Viadelsanti, Venice Florida, 432939, may also have knowledge or information related to ITC's operations at the Property.**

**Additionally, Paula Scappatura, principal of former owner 2632 Realty Development Corp., may also have information related to the Property as may Joseph Scibelli, principal of former tenants.**

13. If you have information or documents which may help EPA identify other companies that conducted operations, owned property, or were responsible for the handling, use, storage, treatment, or disposal of industrial wastes that potentially contributed to chlorinated solvent

contamination at the Site, please provide that information and those documents, and identify the source(s) of your information.

**Response:**     **The only information ITC is aware of, is that produced in litigation with the New York Department of Environmental Conservation and 2632 Realty Development Corporation, of which the EPA is aware.**

14. Please state the name, title and address of each individual who assisted or was consulted in the preparation of your response to this Request for Information. In addition, state whether each such person has personal knowledge of the answers provided.

**Response:**     **Peter Fioretti assisted in the preparation of this document together with his counsel.**

Epstein Becker & Green, P.C.

By:   
\_\_\_\_\_  
Sheila A. Woolson

cc: Ms. Jennifer LaPoma

**CONFIDENTIAL RESPONSES ON THE PART OF ITC**

11. Provide copies of all insurance policies held and indemnification agreements entered into by the Company which may potentially indemnify the Company against any liability which it may be found to have under CERCLA for releases and threatened releases of hazardous substances at and from the Property. In response to this request, please provide not only those insurance policies and agreements which currently are in effect, but also those that were in effect during any portion of the time the Company conducted operations at, or held a property interest at the NCIA. Your response should also identify the specific Property related to each policy and/or agreement.

**Response:** ITC maintains that the information sought by EPA is confidential pursuant to 42 U.S.C. § 9604(e)(7)(E) and (F) and 40 C.F.R. § 2.203(b). Specifically, ITC considers any details related to existence of and/or scope of any insurance policies to be confidential. ITC does not share that information with anyone. Moreover, ITC would be prejudiced if that information were made public because the potential existence of insurance coverage has no bearing on the issue of liability or allocation. Therefore, ITC requests that the information and documents provided in response to Item No. 11 be maintained a confidential.

Subject to the preceding and without waiving it, ITC states that the following insurance policies may apply: AIG Policies-CA 541-38-85 RA; CA-541-31-04 RA; 543-75-00 RA; CA-542-21-04 RA; Hartford Policies-10 AZ 706051rs; 10 AZ 70651; and Jefferson Policy—51-88-87. Copies of the policies are attached hereto are marked as CONFIDENTIAL and are numbered ITC NCIA 095—447.

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## CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

COUNTY OF SUFFOLK:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information regarding the New Cassel/Hicksville Site) and all documents submitted herewith, and that I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement by my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

NAME:

Peter Fioretti

TITLE:

President, Island Transportation Corporation

SIGNATURE

Sworn to before me this \_\_\_\_\_ day of September,  
2013.

Notary Public

**HECTOR CAPINERI**  
NOTARY PUBLIC, State of  
No. 01CA611323  
Qualified in Nassau Co.  
Commission Expires July 26, 2016

Arthur Capron